

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, May 1, 2000

Division Two

A086999 -- Susan Spitzer v. The Good Guys, Inc. et al.

Accordingly, the judgment in respondent's favor on appellant's cause of action for failure to reasonably accommodate is reversed. The judgment is affirmed in all other respects. The parties are to bear their own costs on appeal. Kline, P. J. We concur: Haerle, J. , Ruvolo, J. (Not for Publication.)

Division Five

A086754 -- The People v. Anthony C. Moore

The judgment is affirmed. Kramer, J.*. We concur: Jones, P. J., Stevens, J. (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A085833 -- The People v. Christopher R. McHenry

The judgment is affirmed. Jones, P. J. We concur: Stevens, J., Kramer, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, May 2, 2000

Division One

A089582, A090502 -- The People v. Matthew J. Bongard, Ronald R. Rath

The appeals are consolidated. The motion to decertify the augmentation record is denied. Strankman, P. J.

Division Four

A087122 -- Ghanshyam Patel et al. v. First Solano Mortgage, Inc. et al.
The judgment is affirmed. Poche, J. We concur: Hanlon, P. J., Reardon, J.
(Not for Publication.)

A083331/A086855 -- In re the Marriage of Jenifer Jowsey and Fenwick Riley.

The order characterizing the Geyserville ranch as community property is affirmed. The order setting temporary spousal support at \$5,348 is affirmed.

In the interests of justice each party to bear his/her own costs on appeal.
(Cal. Rules of Court, rule 26(a).) Poché, J. We Concur: Hanlon, P.J., Reardon, J.
(Not for Publication.)

A087635 -- Maria Peebles v. Lee Peebles.
The order is affirmed. Poche, Acting P. J. We concur: Reardon, J. ,
Sepulveda, J. (Not for Publication.)

Tuesday, May 2, 2000

Division Five

A087873 -- George W. Kasten et al. v. City of Orinda et al.

The judgment is reversed. Appellants to recover costs. Jones, P. J. We concur: Stevens, J. Kramer, J.* (Not for Publication.) (*Judge of the San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, May 3, 2000

Division One

A089400, A090439 -- Arthur L. Lantz, Jr. v. American Home Assurance; Arthur L. Lantz, Jr. v. American International Specialty Lines Insurance Company.

The motion to consolidate appeals for the purposes of briefing, argument and decision is granted. Strankman, P. J.

Division Two

A090743 -- Donald C. Marro et al. v. The Superior Court of San Francisco County; Monica J. McGue, R.P.I.

By the Court: The petition for writ of mandate is denied. Haerle, Acting P.J.

A090833 -- Tsee Choy Saechao v. The Superior Court of Alameda; The People, R.P.I.

By the Court: The petition for writ of mandate/prohibition is denied. Haerle, Acting P. J.

A083730 -- The People v. Felix Chiu Wong.

The judgment is affirmed. Kline, P. J. We concur: Haerle, J. Ruvolo, J. (Not for Publication.)

Wednesday, May 3, 2000 (Continued)

A089518 -- In re Perry Y., a Person Coming Under the Juvenile Court Law.

The order adjudicating appellant a continued ward of the court pursuant to Welfare and Institutions Code section 602 and committing him to the CYA is affirmed. Haerle, Acting P. J., We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Four

A083331/A086855 -- In re Marriage of Jenifer Jowsey Rilen and Fenwick Riley.

The order characterizing the Geyserville ranch as community property is affirmed. The order setting temporary spousal support at \$5,348 is affirmed. In the interests of justice each party to bear his/her own costs on appeal. (Cal. Rules of Court, rule 26(a).) Poché, J. We concur: Hanlon, P.J. Reardon, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, May 4, 2000

Division One

A088763 -- In re Marriage of Georgia M. and David A. Renner.

The judgment is affirmed. Stein, J. , We concur: Strankman, P. J, Swager, J. (Not for Publication.)

A087470 -- Christine Lynette Kuns et al., Billy Mack Clark et al. v. City of Ukiah.

By the Court: It is ordered that the published opinion filed on April 7, 2000, be modified in the following particular: SEE ORDER.

There is no change in judgment. The petition for rehearing is denied. Strankman, P. J. (Certified for Publication.)

Division Two

A090918 --Donald Ray Duke v. The Superior Court of Mendocino County; The People, R.P.I.

The petition for writ of coram vobis is denied. Kline, P. J.

A088967 -- The People v. Chad Brodie Pirtle.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J. , Haerle, J. (Not for Publication.)

Thursday, May 4, 2000 (Continued)

**A090347 -- Freddie B. v. Superior Court of the County of Solano;
Solano County Health and Social Services Department of Adult and Child
Services Division.**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888; § 366.26, subd. (1) [precluding further challenge to these orders by petitioner in any subsequent appeal].) The request for stay of the section 366.26 hearing, which is set for May 30, 2000 is denied, and our decision is immediately final as to this court. (Cal. Rules of Court, rule 24(d).) Lambden, J. We concur: Kline, P.J. , Ruvolo, J. (Not for Publication.)

Division Four

A087097 -- Darren Brown v. City of Oakland et al.

The judgment is affirmed. Reardon, J. We concur: Poché, Acting P. J., Sepulveda, J. (Not for Publication.) h

Division Five

A086117 -- The People v. Robert Scott.

The judgment is affirmed. Stevens, J. We concur: Jones, P. J., Kramer, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, May 5, 2000

Division One

A089040 -- The People v. Donald Henry Aviles.

The judgment is affirmed. Stein, J. We concur: Strankman, P. J., Marchiano, J. (Not for Publication.)

A086363 -- Raul J. Navarro and Charlotte Anderson v. Bank of American NT & SA, as Trustee, etc.

The judgment is affirmed. Marchiano, J. We concur: Strankman, P. J., Stein, J. (Not for Publication.)

Division Two

A089544/A090245 Estate of Vera Perrott Vietor, Deceased. R. William Perrott et al. v. Wells Fargo Bank et al.,

We hereby dismiss appeal A089544, and strike that portion of the notice of appeal to A090245 referring to an appeal from the temporary restraining order. Foundation is awarded sanctions in the amount of \$2,975 pursuant to Code of Civil Procedure section 128.7. Lambden, J. We concur: Haerle, Acting P. J., Ruvolo, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, May 8, 2000

Division Two

A089753 -- Dan Fost v. The Superior Court of Marin County; Darrell Hunter and The People of the State of California.

Because the trial court did not determine, and on this record we cannot confidently say, whether petitioner's right must give way to that of defendant, we cannot sustain the order adjudging petitioner in contempt. Accordingly, let a peremptory writ of prohibition issue forever restraining respondent court from enforcing the contempt order at issue herein. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Certified for Publication.)

A083700/A086409 -- The People v. Thomas Leslie Plimmer and Kelly M.

The judgments are affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Four

A089012 In re Carlos O., a Person Coming Under the Juvenile Court Law.

The order adjudicating appellant a continued ward of the court pursuant to section 602 and placing him on probation in the home of his father is affirmed. Hanlon, P. J. We concur: Poché, J., Reardon, J. (Not for Publication.)

A083697 -- The People v. Michael Larosa Best.

The judgment is affirmed. Hanlon, P. J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Monday, May 8, 2000 (Continued)

Division Five

A086790 -- Walter Haynes IV v. State Personnel Board et al.

The judgment is affirmed. Kramer, J.* We concur: Jones, P. J., Stevens, J. (Not for Publication.)

*Judge of the San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A087172 -- Insurance Commissioner of the State of California v. Golden Eagle Insurance Company; Concrete Cutting Company.

The order denying coverage is affirmed. Jones, P. J. We concur: Stevens, J., Kramer, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089679 -- The People v. Thomas Hill

By the Court: Appellant's request for leave to apply for certificate of probable cause is denied. Before Jones, P.J., Stevens, J., Kramer, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A088307 -- Charles J. Berry v. Dylan E. Berry et al.

The summary judgment is affirmed. Kramer, J.* We concur: Jones, P. J., Stevens, J. (Not for Publication.)

*Judge of the San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, May 9, 2000

Division One

A088429 -- The People v. William Johnson

The abstract of judgment shall be amended to reflect that the court found true, and ordered stricken two, instead of three, section 667.5 enhancements. In all other respects, the judgment is affirmed. Stein, Acting P.J., We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Two

**A090910 -- Oliver Tims v. The Superior Court of Alameda County;
The People of the State of California, R.P.I.**

By the Court: The petition for writ of prohibition/mandate/stay is denied. (SEE ORDER.) Kline, P.J.

Division Five

**A087612/A089976 -- Gary Terwilliger v. Marin Municipal Water
District.**

By the Court: Appellant's motion to consolidate the above entitled appeals is granted. (SEE ORDER.) Stevens, Acting P. J.

Tuesday, May 9, 2000 (Continued)

A088590 -- Samuel Anderson v. Corestaff Services, Inc. et al.

The order denying the petition to compel arbitration is reversed. The matter is remanded for further proceedings on the enforceability of the arbitration agreement. Costs are awarded to appellant. Jones, P.J. We concur: Stevens, J., Kramer, J.* (Not for Publication.)

*Superior Court of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, May 10, 2000

Division One

A089151 -- Rufus Alexander v. Dennis Sherry et al.

The judgment is affirmed. Stein, Acting P. J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

A088512 -- In re the Marriage of Ewa M. and Krzysztof H. Zachariasiewicz.

The order is reversed and the matter is remanded for entry of a final order in accordance with this opinion. The parties shall bear their own costs on appeal. Marchiano, J. We Concur: Strankman, P.J., Stein, J. (Not for Publication.)

Division Two

A090972 -- In re Rafael Artiega on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Petitioner must first seek relief in the trial court. Kline, P.J.

A090964 -- In re Mary Elizabeth Hodge on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Wednesday, May 10, 2000 (Continued)

Division Three

A085988/A089020 -- Tricia Grose v. Glen Ellen Fire Protection District, et al.

By the Court: Good cause appearing, on its own motion the court orders the appeals in A085988 and A089020 consolidated for purposes of oral argument and decision. McGuiness, P.J.

Division Four

A086119 -- The People v. Todd James Lyon.

By the Court: It is ordered that the opinion filed April 18, 2000, be modified as follows: (SEE ORDER.) There is no change in the judgment. Appellant's petition for rehearing is denied. Hanlon, P.J. (Not for Publication.)

Division Five

A089091 -- In re Leonard E., a Person Coming Under the Juvenile Court Law.

The order adjudicating appellant a continued ward of the court and placing him in his mother's home is affirmed. Stevens, J. We Concur: Jones, P.J., Kramer, J.* (Not for Publication.)

*San Francisco Superior court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, May 11, 2000

Division Two

A080738 -- The People v. Eric D. Dotson, Tamika Marie Williams and Christopher Earl Murray.

The judgment is modified as to appellant Dotson to stay the term imposed for the robbery as charged in count 2 and the carjacking as charged in count 3 and to stay the terms imposed for the personal firearm use and great bodily injury enhancements as alleged in counts 2 and 3. The judgment is modified as to appellant Murray to stay the term imposed for the robbery as charged in count 2 and the carjacking as charged in count 3 and to stay the terms imposed for the arming enhancement as alleged in counts 2 and 3. In all other respects the judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A090779 -- Roy Glickin v. The Superior Court of San Francisco County, David Carness, R.P.I.

By the Court: The petition for writ of mandate is denied. Kline, P.J.

A087844 -- Albert Morgan, et al. v. John Q. Murdock, et al.

We reverse that part of the judgment dismissing appellants' first cause of action for fraud against Jeffrey Rode and dismissing appellants' second and third causes of action. We affirm that part of the judgment dismissing the first cause of action for fraud against Shari and Fletcher Lamkin only. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Thursday, May 11, 2000 (Continued)

Division Three

A086920 -- In re Jesus L., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A083176 -- In re Marriage of Sabrina and Darrell Leamy.

The appeal is dismissed. Respondent shall recover costs. Parrilli, J. We concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A083176 -- In re the Marriage of Sabrina and Darrell Leamy.

The appeal is dismissed. Respondent shall recover her costs. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A086260 -- In re the Marriage of Dennis A. and Marilyn S. Nilsen.

The denial of Marilyn's motion to set aside the judgment is affirmed. The denial of her fee request is reversed. On remand, the trial court is directed to reconsider the fee issue in light of our discussion in part 2, *ante*. The parties shall bear their own costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A088957 -- Charles Radice v. Julian Mann et al.

The appeal is dismissed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Thursday, May 11, 2000 (Continued)

Division Four

A085323 -- The People v. Gary L. Bennett.

A088218 -- In re Gary L. Bennett, on Habeas Corpus.

The appeal is dismissed. The petition for writ of habeas corpus is granted and the matter is remanded to the trial court for a determination and award of all custody credit due petitioner. Hanlon, P.J. We Concur: Poché, J., Sepulveda, J. (Not for Publication.)

A084883 -- Gail C. French v. California Casualty Management Company.

The summary judgment in favor the Exchange is affirmed. The Exchange shall recover its costs.

The summary judgment in favor of CCMC is reversed with respect to plaintiff's fourth and fifth causes of action as against CCMC alone. The judgment is affirmed in all other respects. Plaintiff shall recover her costs from CCMC. Poché, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

A088076 -- In re Marquetis M., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Hanlon, P.J. We Concur: Poché, J., Reardon, J. (Not for Publication.)

A088789 -- Stephen E. Roulac v. Lowell E. Baier et al.

We affirm the judgment. Reardon, J. I concur: Hanlon, P.J. (See dissenting opinion of Poché, J.) (Not for Publication.)

Thursday, May 11, 2000 (Continued)

Division Five

A085462 -- Mission Housing Development Company et al. v. City and County of San Francisco.

The judgment is reversed to the extent it determines the refund to which Taxpayers are entitled for the 1985-1986 and 1986-1987 tax years. That refund must be calculated based on the property values Taxpayers submitted to the Board of Supervisors in their claim for a refund.

In all other respects, the judgment is affirmed. Costs on appeal are awarded to the City and County of San Francisco. Jones, P.J. We Concur: Stevens, J., Kramer, J.* (Not for Publication.)

*Judge of the Superior Court of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.) (Not for Publication.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, May 11, 2000

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P.J., Haerle, J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

At this point in the proceedings, J. Kline announced that the panel in the first two cases would not include himself.

A086692 The People

v.

Charles Vasil Statler, Jr.

Cause called and argued by Eric S. Multhaup, counsel for appellant and Martin S. Kaye, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A085439 The People

v.

Timothy John Connors

Cause called and argued by Victor J. Morse, counsel for appellant and Michael Banister, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Kline announced that the panel for the next two cases would be himself and Justices Lambden and Ruvolo.

A086322 City of Vacaville

v.

State of California, et al.

Cause called and argued by Charles O. Lamoree, counsel for appellant and Marcia A. Fay, counsel for respondents. Cause ordered submitted.

Thursday, May 11, 2000 (Continued)

A084868 Stan Habr
v.
World Savings and Loan Association
Cause called and argued by William M. Lukens, counsel for appellant and Joseph W. Demko, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Ruvolo left the bench.

A086052 The People
v.
Dwain Everett Davis, Jr.
Cause called and argued by Barbara Zuras, counsel for appellant and Violet M. Lee, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened in its courtroom at 1:30 p.m. Present: Kline, P.J., Haerle, J., Ruvolo, J., and I Santos, Deputy Clerk.

A076892 United Services Automobile Association,
v.
Patricia A. McColm.
Cause called and argued by Patricia A. McColm, in propria persona, and Ian Fraser-Thomson, counsel for respondent. Cause ordered submitted.

A082818 The People,
v.
Zachary H. Calhoun, Jr., et al.
Cause called and argued by Birgit and Zachary Calhoun, in propria personas, and Lucille Baca, counsel for respondent. Cause ordered submitted.

A078883 The People,
v.
Thomas Jerome Dunaway.
Cause called and argued by George Schraer, counsel for appellant, and Raymond Cardozo, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Thursday, May 11, 2000 (Continued)

A086964 Seiler & Company, LLP,
 v.
 Elaine J. Weingartner.
Cause called and argued by Stephen Cavellini, counsel for appellant, and
Martin D. Goodman, counsel for respondent. Cause ordered submitted.

A088064 Ruth Ann Chinn,
 v.
 Ignatius H. Chinn.
Cause called and argued by Patricia Berkowitz, counsel for appellant, and
Bernard Wolf, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, May 12, 2000

Division One

A088088 -- In re Ryan M., a Person Coming Under the Juvenile Court Law.

The order terminating parental rights is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A085271 -- Mario R. Juarez v. Boy Scouts of America, Inc., et al.

The judgment is reversed. The case is remanded for further proceedings in accordance with this opinion. Costs on appeal are awarded to Juarez as against the Scouts. Costs on appeal are also awarded the Church as against Juarez. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Certified for Partial Publication.)

A085790 -- Larry D. Kendricks et al. v. Cal Terhune et al.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Three

A089282 -- In re Edwin C., a Person Coming Under the Juvenile Court Law, The People v. Edwin C.

The order adjudicating appellant a continued ward of the court pursuant to section 602 and placing him on home supervision is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Friday, May 12, 2000 (Continued)

A085988 & A089020 -- Tricia Grose v. Glen Ellen Fire Protection District et al.

The judgment and orders appealed from are affirmed. Corrigan, Acting P.J.
We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A085119 -- The People v. Jason A. Johnson.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J.,
Parrilli, J. (Not for Publication.)

A083116 -- Ali Shirazian v. City of Oakland.

By the Court: Submission of the above-entitled cause is vacated on the
ground further consideration of the merits of the issues raised on appeal is
required. The cause is hereby ordered resubmitted. McGuiness, P.J.

Division Four

A087901 -- The People v. Robert Huntsman.

The judgment is affirmed. Poché, J. We Concur: Hanlon, P.J., Reardon, J.
(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, May 15, 2000

Division One

**A090340 -- Gerardo A. v. The Superior Court of San Francisco
County, San Francisco Department of Human Services et al.**

The challenged orders are supported by substantial evidence. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for May 24, 2000. Therefore, our decision is final in this court immediately. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

A090633 -- Hung Nguyen, et al. v. Al Baldini, et al.

By the Court: Appellant having failed to procure the record on appeal within the time allowed or within any valid extensions of time, and having failed to apply for relief from default, the appeal filed on March 29, 2000 is dismissed. (See Cal. Rules of Court, rule 10(c).) Swager, Acting P.J.

**A090339 -- Elizabeth S. v. The Superior Court of San Francisco
County, San Francisco County Department of Human Services et al., R.P.I.**

The challenged orders are supported by substantial evidence. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for May 24, 2000. Therefore, our decision is final in this court immediately. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Monday, May 15, 2000 (continued)

Division Two

A090917 -- Mark W. Harrell, Jr. v. The Superior Court of Lake County, Karen L. Allen, et al., R.P.I.

By the Court: The petition for writ of mandate/prohibition/stay is denied (*William v. Superior Court* (1993) 5 Cal.4th 337, 349, 355.) Haerle, Acting P.J.

A091099 -- George Louis Kendall v. The Superior Court of Contra Costa County, The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

A086657 -- In re Dustin R. et al., a Person Coming Under the Juvenile Court Law.

The judgment (order) is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

A085306 -- The People v. Donald Erskin Green.

The appeal from the judgment of conviction is dismissed and the sentence under the Three Strikes law is approved. However, the sentence is vacated, and the matter remanded to allow for resentencing in accord with Penal Code section 667.5, subdivision (b). Walker, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A080941 -- Matthew A. Laurence et al. v. Pacific Gas and Electric Co. et al.

The order granting respondents' motions in limine and the resulting judgment of nonsuit are affirmed. Respondents shall recover their costs on appeal. Walker, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Monday, May 15, 2000 (Continued)

Division Five

A089210 -- The People v. Michael M. Nickell.

The judgment is affirmed. Kramer, J.* We Concur: Jones, P.J., Stevens, J.
(Not for Publication.)

*San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089083 -- The People v. Peter Allen Steele.

The order revoking probation and invoking appellant's previously suspended sentence is affirmed. Kramer, J.* We concur: Jones, P.J., Stevens, J.
(Not for Publication.)

*Judge of the San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, May 16, 2000

Division Two

A086511 & A087229 -- Virginia M. Marques v. Bank of America, NT & SA.

The judgment and order are affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A089368 -- The People v. Juan Carlos Delgado Perez.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A087365 -- In re Joshua B., a Person Coming Under the Juvenile Court Law.

In sum, substantial evidence supports the finding of the juvenile court. The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A085375 -- Kelly Engineer v. Shirley McMurphy et al.

The judgment is affirmed. Respondents shall recover their costs on appeal. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A087770 -- In re Ayla M., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Walker, J.

Tuesday, May 16, 2000 (Continued)

A087500 -- The People v. Maxine Smith.

The May 20, 1999 order denying appellant's petition for restoration of sanity is affirmed. Walker, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A086574 -- The People v. Ronald Allen Prasky.

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A089199 -- The People v. Michael A. Riley.

In sum, we find no arguable issues for review, pursuant to *People v. Wende*, *supra*, 25 Cal.3d 435. The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

Division Four

A083746 -- In re Marriage of Mary E. and Thomas D. Terry., Mary E. Terry v. Thomas D. Terry.

A083772 -- Mary E. Terry v. Thomas D. Terry.

The Court: The petition for rehearing by Mary E. Terry is denied. (Hanlon, P.J. and Reardon, J. joined in the decision; Sepulveda, J. would grant the petition.)

The petition for rehearing by Thomas D. Terry is denied. (Hanlon, P.J., Reardon, J. and Sepulveda, J. joined in the decision.)

In light of the numerous requests for publication of the opinion filed herein on April 18, 2000, and good cause appearing, it is hereby ordered that the opinion be published in the Official Reports. Hanlon, P.J. (Certified for Publication.)

Tuesday, May 16, 2000 (Continued)

Division Five

A090433 -- Kennedy/Jenks Consultants, Inc. v. The Superior Court of Contra Costa County, City of Richmond, R.P.I.

Therefore, let a peremptory writ of mandate issue commanding respondent Contra Costa County Superior Court, in case number C97-05272, to (1) set aside and vacate that portion of its March 3, 2000 order which denied KJC's motion to transfer, (2) forthwith hold a hearing to determine whether there is a basis for retaining the underlying complaint in Contra Costa County, and thereafter enter an order ruling on this question, and (3) pursuant to its order regarding the underlying complaint and consistent with the views expressed in this opinion, enter a new and different order granting KJC's motion to transfer the cross-complaint or the entire action to an appropriate neutral county.

City of Richmond's request for judicial notice is denied, for the reasons previously discussed. Kennedy/Jenks Consultants, Inc., is entitled to recover the costs it incurred in this writ proceeding. (Cal. Rules of Court, rule 56.4.)

This decision shall be final as to this court five days from the date of filing, "[t]o prevent any further delay of the proceedings below." (*PH II, Inc. v. Superior Court* (1995) 33 Cal.App.4th 1680, 1683; see Cal. Rules of Court, rule 24(d).) Kramer, J* We Concur: Jones, P.J., Stevens, J. (Certified for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, May 17, 2000 (Continued)

Division Three

A088148 -- The People v. Timothy Roger Yates.

Affirmed. Walker, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A087447 -- Chico Life et al. v. Planned Parenthood Shasta-Diablo, Inc.

The summary judgment is affirmed. The purported appeals from the miscellaneous order are dismissed. (See fn. 1, *ante*.) The parties shall bear their respective costs of appeal. Poché, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A086946 -- County of Contra Costa v. Earl Stinson VanBuskirk, Jr.

That portion of the order vacating the 1996 default judgment of paternity is reversed and the cause is remanded for further proceedings consistent with this opinion. Poché, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

A087694 -- The People v. Jeffrey Michael Vadnais.

The judgment is affirmed. Reardon, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, May 18, 2000

Division One

**A090154 -- Mary Joann G. v. The Superior Court of Del Norte County,
Del Norte County Department of Health & Social Services, R.P.I.**

Let a peremptory writ of mandate issue commanding the Superior Court of Del Norte County in *In re Tiana G.* (Super. Ct. Del Norte County, 2000, No. 99-098-J) to set aside its order of March 17, 2000, setting a hearing pursuant to Welfare and Institutions Code section 366.26 and to instead issue its order directing the Department of Health and Social Services to promptly comply with the notice requirements of the Indian Child Welfare Act (25 U.S.C. § 1912) and California Rules of Court, rule 1439(f), by forthwith notifying the Secretary of the Interior. (See *In re Kahlen W.*, *supra*, 233 Cal.App.3d 1414, 1422-1423.)

Pending issuance of the remittitur herein, the section 366.26 hearing presently set for May 26, 2000, is stayed. This opinion is final as to this Court immediately. (Cal Rules of Court, rule 24(d).) Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

A087945 -- Michael McFadden v. Merry X-Ray Chemical Corp.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Two

A091116 -- In re James Smiley Brown, on Habeas Corpus.

The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

Thursday, May 18, 2000 (Continued)

A090762 -- Janis Capelle v. The Superior Court of Contra Costa County, Contra Costa Community College District, R.P.I.

By the Court: The petition for writ of mandate/prohibition/stay is denied. Haerle, Acting P.J.

Division Four

A090368 -- Tangela H. v. The Superior Court of Solano County, Solano County Health and Social services Department, R.P.I.

The petition is denied on the merits. (Welf. & Inst. Code, § 366.26, subd. (l); Cal. Rules of Court, rule 39.1B, subd. (d)(2).) This opinion is final as to this court forthwith. (Cal. Rules of Court, rule 24.) Poché, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A087332 -- Chris C. Hamer v. Greg A. Hamer.

For all the foregoing reasons, the order of the trial court quashing the April 15, 1998 wage assignment is reversed. Appellant shall recover her costs. Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A086470 -- The People v. Leroy M. Jackson.

A089693 -- In re Leroy M. Jackson on Habeas Corpus.

The judgment is affirmed. Sepulveda, J. We Concur: Poche, Acting P.J., Reardon, J. (Not for Publication.)

Division Five

A088570 -- Michael Thaler v. Household Finance Corporation et al.

Order Modifying Opinion and Ordering Publication of Opinion.

By the Court: It is ordered that the opinion filed herein on April 25, 2000, be modified in the following particulars: (SEE ORDER)

This modification does not effect a change in the judgment.

The written opinion which was filed on April 25, 2000, as so modified, is hereby certified for publication pursuant to rule 976(b)(3) and (4), California Rules of Court, and it is therefore ordered that it be published in the Official Reports. Jones, P.J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, May 19, 2000

Division One

A086095 -- The People v. Tanee Rasheed.

The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting, P.J., Swager, J. (Not for Publication.)

Division Three

A089211 -- Eugene Bynum et al., v. JJR Enterprises, Inc.

By the Court: Counsel having so stipulated, the appeal filed by JJR Enterprises, Inc. dba Caltronics Business Systems on November 12, 1999, is dismissed, with each party to bear its own costs on appeal. The PARTIAL remittitur is to issue forthwith. The appellants' Opening Brief for the cross-appeal filed on November 16, 1999 by plaintiffs and appellants Eugene Bynum, et al., is due on or before June 1, 2000. McGuinness, P.J.

Division Four

A089333 -- Banc of America Securities LLC v. Greg Ager et al.

For all the foregoing reasons, the orders of the trial court are affirmed. The parties shall bear their own costs. Sepulveda, J. We Concur: Poché, Acting P.J., Reardon, J. (Not for Publication.)

A088686 -- The People v. Wilfredo Nefta Mejia.

A090775 -- In re Wilfredo Mejia on Habeas Corpus.

For all the foregoing reasons, the order granting probation under the conditions imposed by the trial court is affirmed as modified herein. The petition for writ of habeas corpus is denied Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

Friday, May 19, 2000. (Continued)

A085794 -- Claire Saunders et al. v. City of Santa Rosa et al.

The judgment is reversed. Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

Division Five

A088036 -- David Shore v. Gail Schwartz et al.

The judgment is reversed with direction to conduct a new hearing on defendants' demurrers and motion to strike. Sepulveda, J. We Concur: Poché, Acting, P.J., Reardon, J., (Not for Publication.)

A087924 -- The People v. Roderick Johnson.

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Kramer, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, May 22, 2000

Division One

A086894 -- Neil Broome v. U-Haul of San Francisco.

The judgment is affirmed. Swager, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A087139 -- The People v. Francisco Calonje.

The judgment of conviction is reversed. Marchiano, J. We Concur: Stein, Acting P.J. Swager, J. (Not for Publication.)

A088805 -- Maria DeLeon et al. v. Donald Meeder.

The judgment is reversed. Each party to bear its own costs on appeal. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A087127 -- State Compensation Insurance Fund v. Charles Quackenbush, as Insurance Commissioner, etc. et al., Schaefer Ambulance Service, Inc., et al., R.P.I.

The judgment is affirmed. Swager, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Monday, May 22, 2000 (Continued)

Division Two

A088040, A088051 and A089463 -- Conservatorship of the Person and Estate of Marvel Shore, David Shore v. Jewish Family & Children's Services.

The orders appealed from are affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A090012; A090785 -- City of San Bruno v. The Superior Court of San Mateo County, Airport Parking Services, Inc., R.P.I.

By the Court: Respondent court having complied with the directive of paragraph (a) of the alternative writ issues by this court on April 24, 2000, the petitions for writ of mandate are dismissed as moot. Haerle, Acting P.J.

Division Three

A084875 -- Union Pacific Corporation et al. v. Richard Wengert.

Order Denying Petition for Rehearing and Modifying Opinion [Change in Judgment].

By the Court: Respondents' petition for rehearing is denied. The opinion filed herein on April 21, 2000, is modified to add the following sentence to the disposition, after the first sentence: "Any retrial shall be limited to the issue of what percentage of the settlement represents a reasonable compromise of Richard Carroll's claim for economic damages."

This modification effects a change in the judgment, per California Rules of Court, rule 24(b). McGuiness, P.J. (Certified for Publication.)

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

DIVISION FIVE

Tuesday, May 23, 2000

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J. Kramer, J., on assignment by the Chief Justice and Richard H. Sandvik Deputy Clerk.

A087220 Kirk Siendentopf et al.

v.

ML Media Partners. L.P.

Cause called and argued by Sean Beatty, counsel for appellant and by Michael J. Langston, counsel for respondent, argued by telephone conference call.

Cause ordered submitted.

A083530 San Remo Hotel, L.P., et al.

v.

City and County of San Francisco

Cause called and argued by Paul F. Utrecht, counsel for appellants and by Andrew W. Schwartz, counsel for respondent. Cause ordered submitted.

A086335 Silver Gruppen A/S et al.

v.

Bo Wunsch

Cause called and argued by Richard Jay Idell, counsel for appellants and by William Siamas, counsel for respondent. Cause ordered submitted.

A088376 Central California Power Agency, No. 1

v.

Count of Lake

Cause called and argued by Anita L. Grant, counsel for appellant and by Ronald F. Lipp, counsel for respondent. Cause ordered submitted.

A086861 The People

v.

Donald Gregory Fontaine

Cause called and argued by George L. Schraer, counsel for appellant and by Joan Killeen, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A088355 Geneva Towers Limited Partnership

v.

City and County of San Francisco

Cause called and argued by Robert O. Divelbiss, counsel for appellant and by Jeffrey I. Margolis, Deputy City Attorney, counsel for respondent. Cause ordered submitted.

A088201 The People

v.

Patrick Chungliang Hsu

Cause called and argued by Edward W. Swanson, counsel for appellant and by Gerald A. Engler, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A087299 The People

v.

Troy Smith

Cause called and argued by David M. Michael, counsel for appellant and by Brian Geringer, Deputy City Attorney, counsel for respondent. Cause ordered submitted.

A087354 The People

v.

George Lucchesi, Jr.

Cause called and argued by Michael P. Goldstein, counsel for appellant and by Eric D. Share, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A088139 In re Jayardy C., a Person Coming Under the Juvenile Court Law
Social Services Agency

v.

Starla C.

Cause called and argued by Sheri Mae Cohen, counsel for appellant and by Anthony E. Scarr, Deputy County Counsel, counsel for respondent. Cause ordered submitted.

Court adjourned at 1:47 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, May 23, 2000

Division One

A089910 -- Carey and Carey v. Laura Sheehan.

By the Court: Upon request of the counsel for appellant, the appeal is dismissed. Strankman, P.J.

A090625, A091180 -- In re James Earl Hines, on Habeas Corpus.

The above captioned petitions for writs of habeas corpus were filed April 3, 2000 and May 22, 2000, respectively. They duplicate one another, and are therefore ordered consolidated under case number A090625.

Respondent shall serve and file informal opposition to the petition on or before 4:00 p.m. June 6, 2000. The opposition may be in letterform, but shall include an original and four copies.

The Clerk of this Court is directed to forward a copy of this order to attorney John Murcko, and to the First District Appellate Project, counsel for petitioner on his direct appeal (A089184). The Clerk shall likewise file a copy of this order in A089184. Strankman, P.J.

A087377 -- Tony V., a Minor, etc. et al v. Humboldt County et al.

The summary judgment is reversed, and the cause remanded to the trial court for further proceedings on appellant's complaint insofar as it alleges violation of a mandatory duty under section 16507.6. Marchiano, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

A087273 - Brooks Walker, Jr., et al v. Franchise Tax Board.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

Tuesday, May 23, 2000 (Continued)

A089212 -- The People v. Steven Michael McNeil.

The court's finding that appellant violated the terms of his probation and its order reinstating probation on the condition, inter alia, that appellant serve an additional 30 days in the county jail are affirmed. Marchiano, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

Division Two

A087425 -- In re Taos P., a Person Coming Under the Juvenile Court Law.

The judgment is reversed. Haerle, J., we concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A091172 - Charles T. Black et al. v. The Superior Court of San Mateo County, Ullico, Inc., et al., R.P.I.

By the Court: The petition for writ of mandate/prohibition is denied. Summary Judgment having been granted, petitioners have a remedy at law by way of appeal from the judgment. Kline, P.J.

Division Three

A088123 - The People v. Brian Keith Bowlin

This case is remanded to the trial court for correction of the abstract of judgment to make it clear that the six-year term imposed for the current offense on June 7, 1999, is to run concurrently from that date forward with the probation revocation term(s) imposed by the parole authority. In all other respects the judgment is affirmed. McGuiness, we concur: P.J., Parrilli, J., Walker, J. (Not for Publication.)

Tuesday, May 23, 2000 (Continued)

A082472 -- Ringler Associates Incorporated v. Maryland Casualty Company et al.

The judgment is affirmed. McGuiness, P.J. We concur: Parrilli, J., Walker, J. (Certified for Publication.)

A087048 -- Clara Wachter v. Eleanore Muenchau et al.

By the Court: Since the court's April 24, 2000 opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied.

Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of the order. McGuiness, P.J.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, May 24, 2000

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness P.J., Parrilli J., Walker, J., and C. Turner, Deputy Clerk.

A086394 Sylvia J. Wasson

v.

Sonoma County Junior College District, et al.,

Cause called and argued by Scott L. Steever, counsel for appellant, and
Larry J. Frierson, counsel for respondent. Cause ordered submitted.

A085732 Justice Corrigan took her place on the bench.

David Shore,

v.

Fenty Kaliman, et al.,

Cause called and argued by James McCarty Braden, counsel for respondent
and there was no appearance from David Shore appellant .

A085385 In re Daniel L., a Person Couming Under the Juvenile Court Law.

The People,

v.

Daniel L.,

Justice McGuiness announced that the panel on this case is comprised of
McGuiness, P.J., Corrigan, J and Parrilli J.

Cause called and argued by Jo Lynn Lambert, counsel for appellant, and
Deputy Attorney General Jill M. Thayer, counsel for respondent. Cause
ordered submitted.

A084753 The People,

v.

Sean Loudon,

Justice Parrilli left the bench.

Cause called and argued by Steven R. Yourke, counsel for appellant, and
Deputy Attorney General Mark S. Howell, counsel for respondent. Cause
ordered submitted.

A083923 The People,
 v.
 Tommy Lee Bell,
 Cause called and argued by Michael Satris, counsel for appellant, and
 Deputy Attorney General Linda Murry, counsel for respondent. Cause
 ordered submitted.

A085914 Rainbow Construction,
 v.
 County of Mendocino,
 Cause called and argued by Bradford K. Newman, counsel for appellant,
 and Irven L. Grant, counsel for respondent. Cause ordered submitted.

A082700 The People,
 v.
 George Lincoln Coats,
 Cause called and argued by Paul Vincent Carroll, counsel for appellant, and
 Deputy Attorney General Laurence Sullivan, counsel for respondent.
 Cause ordered submitted.

A086442 Estate of Marjorie C. MacDonald:
 Marsali Macdonald,
 v.
 Sheila MacDonald Allen,
 Cause called and argued by Gail MacDonald Wood, appellant in pro-per,
 and Henry Daniel Froneberger, counsel for respondent. Cause ordered
 submitted.

court recessed until 1:30 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, May 24, 2000

Division One

A086564 -- Berkeley Unified School District v. General Star National Insurance Company.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

A087225 -- In re James M., a Person Coming Under the Juvenile Court Law.

Accordingly, the judgment is reversed and the case is remanded to the trial court for proceedings consistent with rule 1498(d) of the California Rules of Court and *James H. v. Superior Court, supra*, 77 Cal.App.3d 169. Swager, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A087608 -- Montgomery L. Patterson v. City of Livermore.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Division Two

A084755 -- The People v. Danny R. Hackett.

A088659 -- In re Danny R. Hackett on Habeas Corpus.

The judgment is reversed and the case remanded for proceedings not inconsistent with the foregoing. In view of the disposition we make of the appeal, appellant's petition for a writ of habeas corpus is denied as moot. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Wednesday, May 24, 2000 (Continued)

A085617 -- Blossom Lum Jang v. State Farm Fire and Casualty Company.

The judgment of the trial court is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Certified for Publication.)

A085116 -- The People v. David Anderson Williams.

A085926 -- In re Williams on Habeas Corpus.

The abstract of judgment is amended to reflect 320 local conduct credits for a total of 963 days credit for time spent in custody. In all other respects the judgment is affirmed. The petition for writ of habeas corpus is denied as moot. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Four

A090397 -- Chinese Newspapers Consolidated Sales, Inc. v. Sing Pao Newspaper & Publications, Ltd.

We have no jurisdiction to entertain this purported appeal from a nonappealable interlocutory order. The appeal is dismissed. We direct the trial court to vacate the judgment, the stipulation upon which it is based and the dismissal without prejudice. (See *Hill v. City of Clovis*, *supra*, 63 Cal.App.4th at p. 446.) Parties to bear their own costs on appeal. Reardon, J. We Concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A086315 -- Gerald Cirincione-Coles et al. v. County of Marin et al

For all the foregoing reasons, the judgment of the trial court is affirmed in its entirety. Costs to respondent. Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A088236 -- Randy Spencer v. Peter Ostrosky.

The purported appeal and cross-appeal are dismissed. Reardon, J. We Concur: Poché, Acting P.J., Sepulveda, J. (Not for Publication.)

Wednesday, May 24, 2000 (Continued)

A084859 -- In re the Marriage of Claudia Price Cross and Alphonzo A. Cross.

By the Court: It is ordered that the opinion filed herein on April 28, 2000, be modified as follows: SEE ORDER.

There is no change in the judgment. Appellant's petition for rehearing is denied. Hanlon, P.J. (Not for Publication.)

A085779 -- The People v. Charles John Walsh.

The order granting defendant's motion to dismiss the information is reversed. Reardon, J. We Concur: Poché, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

A086507 -- The People v. Anthony Bustos.

The judgment is modified to reflect an additional nine days of presentence credit. The superior court is directed to prepare an amended abstract of judgment reflecting the correct award of presentence credit. The judgment is otherwise affirmed. Kramer, J.* Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A090362 -- Teresa H. v. The Superior Court of Sonoma County, Sonoma County Department of Human Services, R.P.I.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The section 366.26 hearing is scheduled for June 21, 2000, and we order that our decision shall be final in this court immediately. (Cal. Rules of Court, rule 24(d).) Stevens, J. We Concur: Jones, P.J., Kramer, J.* Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, May 25, 2000

Division One

A086583 -- The People v. Xieng Khou.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

A090950 -- Michael Shephard v. The Superior Court of Solano County, The People, R.P.I.

By the Court: Therefore, let a peremptory writ of mandate issue commanding respondent County of Solano Superior Court in *People v. Michael Shephard* (No. MH6228 (130465)) to enter its order directing Michael Shephard's immediate return to court on the ground that the offense charged in the complaint on file is a misdemeanor violation of Penal Code section 452, subdivision (c), and to thereafter, promptly proceed in accordance with the provisions of Penal Code section 1370.01, subdivisions (c)

This opinion is final as to this Court immediately. (Cal. Rules of Court, rule 24 (d).) Before Strankman, P.J., Stein, J., and Marchiano, J. (Not for Publication.)

Division Two

A084599 -- The People v. Sidney L. Gurley.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Thursday, May 25, 2000 (Continued)

A091192 -- Henry Maxie Wheeler v. The Superior Court of Contra Costa County, The People, R.P.I.

By the Court: The petition for writ of prohibition/stay is denied. Kline, P.J.

A088507 -- Jerline Williams v. 24 Hour Fitness, Inc.

The judgment is affirmed. Appellants are to pay costs. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Four

A087876 -- In re Withelma O., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Poché, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

Division Five

A086690 -- The People v. Gary Wayne Anderson.

The judgment is reversed with the following directions to the trial court. In case No. C43191, Anderson shall be permitted to withdraw his admission to the probation violation, and enter a denial to its allegations, on the condition that his plea of no contest to the charge of violation of section 245, subdivision (a), in case No. 168698, be withdrawn; that the order reducing this charge to a misdemeanor under section 17 be vacated; and that Anderson be permitted to reinstate his not guilty plea to the felony offense of violation of section 245, subdivision (a). Stevens, J. We Concur: Jones, P.J., Kramer, J.* Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution (Not for Publication.)

Thursday, May 25, 2000 (Continued)

A088261, A087762 -- In re Destiny W., a Person Coming Under the Juvenile Court Law.

The orders appealed from are affirmed. Kramer, J.* Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, May 26, 2000

Division One

A088141 -- The People v. \$2, 980 United States Currency, Pedro Bernal.

The order striking appellant's claims is reversed. Stein, J. We Concur: Strankman, P.J. , Marchiano, J. (Not for Publication.)

Division Two

A088130 -- The People v. Kevin Barcomb.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A087364 -- The People v. David Brubach.

The judgment is reversed as to the conviction for the delivery of a threatening letter for extortion. The judgment is otherwise affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A088921 -- The People v. Oscar Mata.

Accordingly, the judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Friday, May 26, 2000 (Continued)

Division Three

A084581 -- Benicia Industries, Inc. v. City of Benicia et al.

The judgment is affirmed. The City shall recover its costs on appeal.
Parrilli, J. We Concur: McGuinness, P.J., Walker, J. (Not for Publication.)

A085914 -- Rainbow Construction v. County of Mendocino, Danco Builders, R.P.I.

The judgment is affirmed. The request for attorney's fees is denied. Costs to respondents. Corrigan, J. We Concur: McGuinness, P.J., Walker, J. (Not for Publication.)

A085732 -- David Shore v. Fenty Kaliman et al.

We affirm the trial court's order sustaining the demurrer without leave to amend on the unassailed ground that jurisdiction rests exclusively in the bankruptcy court. Respondents shall recover their costs on appeal. Walker, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Division Five

A087546 -- James Roskind v. Morgan Stanley Dean Witter & Co.

Order Modifying Opinion and Denying Rehearing. By the Court: It is ordered that the opinion filed herein on April 27, 2000, be modified as follows: (SEE ORDER) This modification does not effect a change in the judgment. The petition for rehearing is denied. Jones, P.J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, May 29, 2000

Division Two

A084868 -- Stan Habr v. World Savings and Loan Association.

The judgment is modified to correct the arbitrators' award by striking the \$18,096 awarded for expert witness fees and, as so modified, is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A087352 -- The People v. Ephraim Alan Jenkins.

Our review of the record discloses no infirmity in the conviction. Appellant was represented by counsel throughout the proceedings and there was substantial evidence to support the verdict and judgment. We find no error in the imposition of the sentence and discern no issues which require further briefing. The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A086999 -- Susan Spitzer v. The Good Guys, Inc.

By the Court: Appellant's request to publish the opinion is granted. The opinion of this court filed May 1, 2000 is ordered certified for publication with the exception of parts IV and V. Kline, P.J.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, May 30, 2000

Division One

A088621 -- The People v. Deshawn Maull

Accordingly, the judgment is affirmed. Swager, J. We concur: Stein, Acting P. J., Marchiano, J. (Not for Publication.)

A088033 -- David Shore v. Donald Linck

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A087517 -- In re Ke'Mani R., a Person Coming Under the Juvenile Court Law.

The May 14, 1999 order is affirmed. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

A087615 -- City and County of San Francisco v. Luis F. Mendez [and eight other cases.]

The judgments are affirmed as to the establishment of paternity. The judgments are reversed as to the child support awards. The cases are remanded to the trial court for proceedings consistent with this opinion. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

Tuesday, May 30, 2000 (Continued)

A087442 -- In re Roberto A., a Person Coming Under the Juvenile Court Law.

The jurisdiction order of April 1, 1999, is reversed in its finding that appellant committed felony grand theft. The order is affirmed as to its unchallenged finding that appellant committed misdemeanor battery, and in its adjudication of appellant as a ward of the court. The case is remanded to the juvenile court for recalculation of the maximum period of confinement and for further proceedings consistent with the opinions expressed in this decision. Strankman, P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

A086467 -- The People v. Hector Manuel Valencia Quezada

The judgment is affirmed. Strankman, P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

A088737 -- In re James Earl Hines on Habeas Corpus

By the Court: The petition for writ of habeas corpus is granted. The judgment of conviction in Contra Costa County Superior Court No. 902447-2 is vacated, and petitioner is remanded to that court. Upon finality of this decision, the clerk of this court is directed to remit a certified copy of this opinion to the superior court for filing. The Attorney General shall serve a copy thereof on the District Attorney of Contra Costa County (§ 1382, subd. (a)(2)) and file proof thereof in this Court. Before Strankman, P.J., Stein, J., Marchiano, J. (Not for Publication.)

A086577 -- The People v. Swetarchery Robin Hampton.

The judgment is affirmed. Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Three

A083923 -- The People v. Tommy Lee Bell.

The judgment is modified to stay the six-month concurrent sentence for battery. In all other respects, the judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Walker, J. (Not for Publication.)

Tuesday, May 30, 2000 (Continued)

A088222 -- In re Manuel F. et al, Persons Coming Under the Juvenile Court Law.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A089228 -- The People v. Damien Deshawn Hartwell.

Appellant's convictions are affirmed. However, we remand for resentencing as outlined in part III, *supra*. McGuiness, P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A088549 -- The People v. David Layne Leffler.

The judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A088027 -- Daniel Lee v. Swinerton & Walberg Co.

The judgment is affirmed. Appellant to bear costs of appeal. McGuiness, P.J. We Concur: Corrigan, J., Walker, J. (Not for Publication.)

A084753 -- The People v. Sean Loudon.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Walker, J. . (Not for Publication.)

A085385 -- In re Daniel L., a Person Coming Under the Juvenile Court Law.

The order of the juvenile court is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A082751 -- The People v. Freddie Lee Roberson.

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Tuesday, May 30, 2000 (Continued)

A084934 -- Specialized Clutch & Brake of Stockton, Inc. v. United Brake Systems, Inc., et al.

The partial summary adjudication on the fifth cause of action of Specialized's first amended complaint in favor of United, Midland and CEC, is reversed. In all other respects, the judgment is affirmed. Respondents Midland, United and CEC shall pay Specialized's costs on appeal. McGuiness, P.J. We Concur: Corrigan, J., Walker, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, May 31, 2000

Division One

A083267 -- Pauline McDaniel et al., v. World Savings and Loan Association.

The appeal of decedent Izear McDaniel is dismissed. The judgment is affirmed. Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A088679 -- The People v. Ernest J. Rougeau.

The judgment of conviction is affirmed. Marchiano, J. We Concur: Strankman, P.J., Stein, J. (Not for Publication.)

Division Two

A088638 -- The People v. Hamed Akbar.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A088823 -- In re Derek D., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A088448 -- The People v. Eliseo Barajas Vargas.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Wednesday, May 31, 2000 (continued)

Division Three

A086442 -- In re Estate of Marjorie C. MacDonald.

Affirmed. Walker, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

A086713 -- Henry Pierotti et al. v. Hank Torian et al.

The matter is remanded to the trial court to calculate and award “post-award, pre-judgment interest” to Pierotti as part of the judgment. In all other respects the judgment is affirmed.

On remand, the trial court is also to determine the amount of attorney fees Pierotti expended in defending against this frivolous appeal, and shall order Torian to pay such sum to claimants.

Finally, as sanctions for bringing this frivolous appeal and unreasonably violating the Rules of Court, Torian shall pay \$13,000 to claimants and \$3,000 to the clerk of this court. Likewise, attorneys David Jay Morgan and Batya F. Smernoff are jointly and severally liable to pay \$13,000 to claimants and \$3,000 to the clerk of this court. The clerk of this court is directed to deposit said sums in the general fund. All sanctions shall be paid no later than 15 days after the date the remittitur is filed.

Attorney David Jay Morgan, Batya F. Smernoff, and the clerk of this court are *each* ordered to forward a copy of this opinion to the State Bar upon return of the remittitur. (Bus. & Prof. Code, §§ 6086.7, subd. (c) & 6068, subd. (o)(3); *Caro v. Smith, supra*, 59 Cal.App.4th at p. 740.)

Respondents (Pierotti, et al.) are awarded costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Walker, J. (Certified for Publication.)

A086394 -- Sylvia J. Wasson v. Sonoma County Junior College District et al.

The judgment entered for respondents upon the sustaining of their demurrer and granting of their motion to strike is affirmed. Respondents shall recover their costs on appeal. Walker, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Wednesday, May 31, 2000 (Continued)

Division Four

A089159 -- In re Brandon C., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Reardon, J. We Concur: Hanlon, P.J. , Sepulveda, J. (Not for Publication.)

A086841 -- The People v. Ronald Gene Collins

The judgment is affirmed. Hanlon, P.J. I Concur: Reardon, J. Concurs in the judgment only: Poché, J. (Not for Publication.)

A086921 -- In re Joshua K., a Person Coming Under the Juvenile Court Law.

The dispositional order is affirmed. Poché, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

A084798 -- The People v. Carl Edward Leopold.

The judgment is affirmed. Reardon, J. We Concur: Poché, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

A087259 -- The People v. Alfred Duane Albers, Sr.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Kramer, J.* Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.